**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE**

**FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929**

**WP(C).No. 25668 of 2005(E)**

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**AGAINST THE ORDER IN IA.NO.441/2002 IN OPMV.683/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KASARAGOD**

**.....**

**PETITIONER:**

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**BALAKRISHNAN P.,**
**S/O.VALAPPIL AMBUNHI,BALANTHODU,**
**P.O.PANATHADY,(VIA) RAJAPURAM,**
**KASARAGOD DISTRICT.**

**BY ADV. SRI.T.K.VIPINDAS**

**RESPONDENTS:**

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1. **THE MANAGER,UNITED INDIA INSURANCE COMPANY LTD.,BRANCH OFFICE,P.B.NO.29, RAHMATH SHOPPING COMPLEX,KOTTACHERRY P.O., KASARAGOD DISTRICT.**

2. **USHA K.P.,W/O.SUBRAHMANYA, KANIYANPARAYIL,KALLINGAL,P.O.PALIKKARA, KASARAGOD DISTRICT.**

3. **T.V.KUNHAMBU, S/O.AMBUNHI, THOTTILAYI VEEDU, KALICHANADUKKOM, THAYANNUR VILLAGE, P.O.THAYANNUR.**

**BY ADV. SRI.P.R.RAMACHANDRA MENON for R1**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/10/2007 ALONG WITH WPC NO. 26536 OF 2005, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

*KSS*

**WPC.NO.25668/2005 E**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P1:** **COPY OF THE COMMON AWARD IN O.P.(MV) 683/1998, 684/98, 685/1998, 931/1998, 932/1998 AND 933/1998 ON THE FILE OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, KASARAGOD DTD. 17/11/2001.**

**EXT.P2:** **COPY OF THE ORDER DTD. 6/05/2002 IN I.A.144/20002 IN O.P.(MV) 683/1998, 684/98, 685/1998, 931/1998, 932/1998 AND 933/1998 ON THE FILE OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, KASARAGOD.**

**/TRUE COPY/**

**P.A.TO JUDGE**

*KSS*

**PIUS C. KURIAKOSE, J.**

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W.P.(C) No. 25668 OF 2005

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W.P.(C) No. 26536 OF 2005

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Dated this the 19th day of October, 2007

**JUDGMENT**

This Writ Petition is remaining defective on the reason that respondents 2 and 3 have not been served with notice. Considering the issue involved, according to me respondents 2 and 3 are not necessary parties and the issue can be decided between the petitioner and the 1st respondent Company.

2. The grievance of the petitioner who was the 2nd respondent in OP(MV) No.683 of 1998 and OP (MV) No.684 of 1998 before the MACT, Kasargod is that by order in IA No.144 of 2002(Ext.P2 order), the MACT has reviewed its earlier award to the detriment of the petitioner. According to the petitioner he was not served with notice of the review petition. It is so averred in paragraph 3 of the Writ Petition. No counter affidavit has been filed to the Writ Petition by the Insurance Company which is the beneficiary of Ext.P2. Even though Sri.P.R.Ramachandra Menon, counsel for the Insurance Company would submit that it has been held that neither an appeal nor a Writ Petition will lie against awards of MACT for less than Rs.10,000/- and on that reason Writ Petitions are not maintainable, I am of the view that the

issue raised in this Writ Petition is the legality of the MACT reviewing its order without notice to somebody who was the beneficiary of that order. According to me the petitioner whose interest has been affected by Ext.P2 should have been given notice of the review petition and should have been heard before Ext.P2 is passed. On that reason, I set aside Ext.P2 and direct the MACT, Kasargod to pass fresh orders on the review petition after hearing the petitioner also. Fresh orders as directed above will be passed at the earliest and at any rate within six weeks of receiving copy of this judgment.

It is open to the petitioner to raise all grounds available to him in law including the ground against the maintainability of the application for review.

**PIUS C. KURIAKOSE, JUDGE**

btt